

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE-OPELOUSAS DIVISION

Kilgore Marine Services, Inc.

Civil Action 07-1609

versus

Judge Tucker L. Melançon

Fireman's fund Ins. Co., et al

Magistrate Judge C. Michael Hill

**FINAL JUDGMENT UNDER RULE 54(B)**

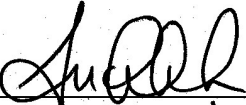
Before the Court is a Motion For Entry Of Final Judgment Pursuant To Federal Rule Of Civil Procedure 54(b) [Rec. Doc. 43] filed by third party defendant Cliff E. Laborde III ("Laborde"). By judgment dated August 11, 2008, the Court affirmed Magistrate Judge C. Michael Hill's Report and Recommendation granting Laborde's motion to dismiss the claims of third party plaintiffs, Fireman's Fund Insurance Company and Houston Casualty Company ("Underwriters"). *R. 42.* On August 14, 2008, Underwriters filed a motion to alter the judgment on Laborde's motion to dismiss. *R. 44.* The Court granted Underwriters' motion, changing the judgment's dismissal "with prejudice" to a dismissal "without prejudice."

A district court deciding whether to issue a partial final judgment under Rule 54(b) must make two determinations. First, the district court must determine that it is "dealing with a final judgment." The judgment is final if it is "an ultimate disposition of an individual claim entered in the course of a multiple claims action." The second determination the district court must make is whether any just reason for delay exists. *Briargrove Shopping Center Joint Venture v. Pilgrim Enterprises, Inc.*, 170 F.3d 536, 539

(5<sup>th</sup> Cir. 1999) (quoting *Curtiss-Wright Corp. v. General Electric Co.*, 446 U.S. 1, 7-8 (1980)(internal citations omitted). Based on the Court’s order amending the judgment on Laborde’s motion to dismiss to a dismissal “without prejudice,” it is

ORDERED that the Motion For Entry Of Final Judgment Pursuant To Federal Rule Of Civil Procedure 54(b) filed by third party defendant Cliff E. Laborde III [Rec. Doc. 43] is DENIED.

THUS DONE AND SIGNED in Lafayette, Louisiana, on this 15<sup>th</sup> day of August, 2008.

  
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Tucker L. Melançon  
UNITED STATES DISTRICT JUDGE

